

22.06.2022
Item No.28
Ct. No.7
CHC
(disposed of)

C.O.1379 of 2022

Mosraf Khan
Vs.
Lili Sadhukhan & ors.

Mr. Souri Ghosal,
Mr. Prabhat Kumar Singh
...for the petitioner

The subject-matter of challenge in this revisional application is against the rejection of prayer filed by the petitioner/defendant under Order 26 Rule 9 C.P.C. praying for local investigation of suit property.

Admittedly, this is a suit for eviction, wherein the petitioner/defendant has denied the relationship of the plaintiff together with the extent of the tenancy held by the petitioner.

This is neither a case based on encroachment nor a boundary dispute.

Learned advocate appearing for the petitioner submits that the extent of the tenancy held by the petitioner is not owned by the plaintiff seeking eviction against him.

Upon perusal of the impugned order, it appears that the point sought to be raised upon resorting to an application under Order 26 Rule 9 C.P.C. may be best

adjudged in an application under Section 7(2) of the W.B.P.T. Act.

The revisional application thus disposed of giving liberty upon petitioner to raise all such points in pending application under Section 7(2) W.B.P.T. Act, if filed, in Title Suit No.384 of 2018 before learned Civil Judge (Junior Division), 5th Court at Howrah.

Petitioner is directed to make communication of this order to the learned court below as well as to the opposite parties and their learned advocate in the court below.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)